



QUESTION:

Shareholders in listed companies have limited rights. Isn't it time that this position was reviewed?

ANSWER:

New regulations have recently been introduced which will make it much easier for the shareholders of publicly listed companies to hold their companies' management to account and have their say about the way such companies are run.

The *Shareholders' Rights (Directive 2007/36/EC) Regulations 2009* contain new rights for shareholders and provide for timely access to company information. They also promote the use of simplified electronic or internet-based means for shareholders to exercise their right to vote at general meetings of publicly listed companies.

Announcing their commencement, the Tánaiste said the new Regulations would assist in increasing shareholders' understanding, activism and engagement with the companies that they own. Ms. Coughlan said that providing for increased transparency and making shareholder participation simpler would further enhance our corporate governance regime. She said it would assist shareholders determine whether managers are acting in the best interests of the company's owners.

Principal among the changes introduced by the Regulations are: -

- Providing for shareholder participation across borders without the need to physically attend meetings, notably through the exercising of voting rights electronically;
- Obliging companies to answer shareholders' questions at general meetings;
- Obliging companies to publish documents and information regarding a general meeting on their website, including the result of votes taken;
- Allowing shareholders representing at least 5% of the voting shares in a company the right to call a general meeting (previously a holding of 10% was required);
- Allowing shareholders representing at least 3% of the voting shares in a company the right to put items on the agenda and table draft resolutions for a general meeting; and
- Strengthening shareholders' rights in relation to the appointment of proxies at general meetings.

The Regulations also abolish "share blocking" (a prohibition on trading in shares in the run-up to a meeting by shareholders intent on participating and voting at such a meeting) and replaces it with a simplified procedure whereby a shareholder's rights are based on the shares held by him/her on a specified date prior to the general meeting (to be known as a record date).

The Regulations give effect to EU Directive 2007/36/EC and apply to companies that have their registered office in the State and whose shares are admitted to trading on a regulated market situated or operating within a Member State.

It has been said that from an Irish viewpoint, implementation of the Directive through these new Regulations enhances shareholder rights already contained in existing Irish company law. These enhanced rights are reflected in particular in the right to put items on the agenda, table draft resolutions, ask questions and vote electronically.

The Regulations, which apply in respect of general meetings of which notice is given or first given on or after the 6th of August 2009, complements Ireland's implementation of three other Directives covering related areas, i.e. the Market Abuse, Prospectus and Transparency Obligations Directives, over the past four years. Shareholders of companies traded on a regulated market also benefit from obligations imposed on such companies under these pieces of legislation.

Commentaries on provisions of legislation are not intended to be a legal or comprehensive interpretation. Professional advice should be sought in specific circumstances. For further information on statutory requirements, or any provision of the Companies Acts, 1963 to 2009, please contact our Company Secretarial Department on:

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